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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2007-77

13 **DONNA MARIE NIXON, a.k.a.**
14 **DONNA MARIE NIXON (LOCHER) (KEENAN)**
73 Via Jodi
Gustine, California 95322

A C C U S A T I O N

15 Registered Nurse License No. 540943,

16
17 Respondent.
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19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
23 Affairs.

24 **License History**

25 2. On or about February 24, 1998, the Board issued Registered Nurse License
26 Number 540943 ("license") to DONNA MARIE NIXON, also known as DONNA MARIE
27 NIXON (LOCHER) (KEENAN) ("Respondent"). The license will expire on June 30, 2007,
28 unless renewed.

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a)

1 and (b) of this section, or the possession of, or falsification of a record pertaining to, the
2 substances described in subdivision (a) of this section, in which event the record of the
conviction is conclusive evidence thereof.

3 COST RECOVERY

4 8. Code section 125.3 provides, in pertinent part, that the Board may request
5 the administrative law judge to direct a licensee found to have committed a violation or
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
7 and enforcement of the case.

8 FIRST CAUSE FOR DISCIPLINE

9 (Criminal Convictions)

10 9. Respondent is subject to disciplinary action under Code section 2761,
11 subdivision (f), in that Respondent committed crimes substantially related to the qualifications,
12 functions, and duties of a registered nurse, as follows:

13 a. On or about November 1, 2000, in the Superior Court of California,
14 County of Monterey, in the case entitled, *People of the State of California v. Donna Marie Nixon*
15 (Super. Ct., Monterey County, King City Division, 2000, Case No. MK068994A, Respondent
16 was convicted by the court on her plea of guilty of violating Vehicle Code section 23152,
17 subdivision (a) (Driving Under the Influence of Alcohol), a misdemeanor. The circumstances of
18 the crime are that on or about September 8, 2000, Respondent did willfully and unlawfully drive
19 a vehicle upon a highway while under the influence of alcohol

20 b. On or about January 11, 2005, in the Superior Court of California, County
21 of Santa Clara, in the case entitled, *People of the State of California v. Donna Marie Nixon*
22 (Super. Ct. Santa Clara County, San Jose Facility, 2004, Case No. CC457895), Respondent was
23 convicted by the court on her plea of nolo contendere of violating Vehicle Code section 23152,
24 subdivision (a) (Driving Under the Influence of Alcohol with a Prior), a misdemeanor. The
25 circumstances of the crime are that on or about April 27, 2004, Respondent did drive a vehicle
26 while under the influence of alcohol.

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1 PRAYER

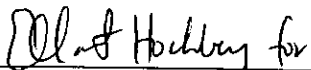
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 540943 issued
5 to DONNA MARIE NIXON, also known as DONNA MARIE NIXON (LOCHER) (KEENAN);

6 2. Ordering DONNA MARIE NIXON, also known as DONNA MARIE
7 NIXON (LOCHER) (KEENAN), to pay the Board the reasonable costs of the investigation and
8 enforcement of this case pursuant to Code section 125.3; and,

9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: September 29, 2006

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13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
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